

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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FREDERICK DIAZ,

Plaintiff,

-v-

9:15-cv-776  
(DNH/DJS)

STEPHANIE PELO, Grievance Supervisor,  
Great Meadow Correctional Facility; C. FRASER,  
Sergeant, Great Meadow Correctional Facility;  
KENNETH MCKEIGHAN, Industry  
Superintendent, Great Meadow Correctional  
Facility; RODNEY EASTMAN, Deputy  
Superintendent of Security, Great Meadow  
Correctional Facility; CHRISTOPHER MILLER,  
Superintendent, Great Meadow Correctional  
Facility; and RACHEL A. YOUNG, Acting  
Director of the Office of Guidance & Counseling,

Defendants.

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APPEARANCES:

FREDERICK DIAZ  
86-B-2129  
Plaintiff pro se  
Elmira Correctional Facility  
P.O. Box 500  
Elmira, NY 14902

HON. ERIC T. SCHNEIDERMAN  
New York State Attorney General - Albany  
Attorney for Defendants  
The Capitol  
Albany, NY 12224

NICOLE E. HAIMSON, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

## **DECISION and ORDER**

Pro se plaintiff Frederick Diaz brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 24, 2017, the Honorable Daniel J. Stewart, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss be granted in part and denied in part. Plaintiff timely filed objections to the Report-Recommendation.

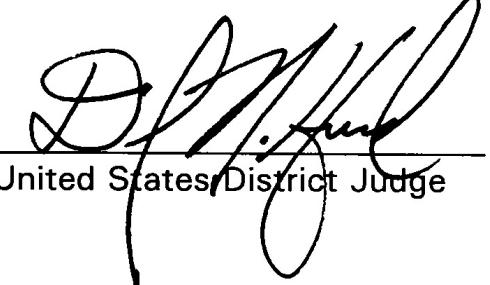
Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion to dismiss is GRANTED in part and DENIED in part;
2. Plaintiff's conspiracy and equal protection claims are DISMISSED as against all defendants;
3. Defendants are directed to file an answer to the Complaint within twenty (20) days of the date of this Decision and Order; and
4. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



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United States District Judge

Dated: April 17, 2017  
Utica, New York.

The following claims remain: (1) that defendants Pelo and Young violated plaintiff's due process rights when they deducted \$1,660.20 from his inmate account; (2) that defendants Pelo and Young retaliated against plaintiff when they deducted \$1,660.20 from his inmate account; (3) that defendants Fraser and Eastman retaliated against plaintiff by issuing him a false IPC report; (4) that defendant McKeighan violated plaintiff's due process rights during the IPC and IGRC impeachment hearings; (5) that defendant McKeighan retaliated against plaintiff by affirming his IPC placement; (6) that defendants Eastman and Miller retaliated against plaintiff by upholding his IPC placement; and (7) that defendant Pelo retaliated against plaintiff by issuing him a false misbehavior report.